THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No. 4796 OF 2006

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Between:

Machala Stephen Kumar

… Petitioner

And

Government of A.P. represented by

its Secretary, Employment & Social

Welfare (B2) Department, Secretariat,

Hyderabad and others.

… Respondents.

ORDER:

The petitioner who is presently working as Health Assistant in Medical and Health Department of the Government of Andhra Pradesh has filed this writ petition questioning the orders of the Collector and District Magistrate, dated 23.2.2006, by which, his caste certificate is cancelled in exercise of the powers under Section 5(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short " the Act").

It is the case of the petitioner that his mother belongs to Yerukala, which is a Scheduled Tribe community as per the Presidential Order, and, she married his father, who belongs to Scheduled Caste and it is stated that right from his childhood, in all the school records, his caste is recorded as Scheduled Tribe. Basing on the said Scheduled Tribe certificate he secured employment and is presently working as Health Assistant. It is also his case that as per G.O.Ms.No.371, dated 8.4.1976 wherein certain guidelines were issued, lower caste of either of the parents shall be the caste of the child in inter caste marriages for the purpose of reservation of seats.

Learned counsel for the petitioner submitted that as against the order of the District Collector cancelling the caste certificate of the petitioner, there is a remedy of appeal provided to the Government under Section 7(2) of the Act. The petitioner preferred appeal along with an application for stay and when no orders have been passed either on the application for stay or in the appeal, the petitioner has preferred this writ petition.

It is the grievance of the petitioner that on one hand, the appellant authority is not exercising its jurisdiction vested in it in the appeal filed by him, and, on the other hand, his employer is taking expeditious steps to initiate disciplinary proceedings on the orders passed by the District Collector on 23.2.2006.

Inasmuch as the appeal filed by the petitioner is pending consideration before the first respondent, it is not desirable to record any finding on the merits of the case. But, suffice it to say that the material filed along with the writ petition shows that right from school level, petitioner's caste is shown as Scheduled Tribe. Petitioner has also filed a copy of the appeal in proof of the appeal being filed by him before the Government on 7.3.2006. In that view of the matter, I deem it proper to direct the first respondent-appellate authority to decide the appeal on its own merits. But, inasmuch as the caste certificate was issued several years back and he secured employment in the year 2003 and is continued as such, the order of the District Collector dated 23.2.2006 shall remain suspended till the disposal of the appeal by the appellate authority.

Subject to the above direction, the writ petition is disposed of and the appellate authority shall decide the appeal as expeditiously as possible, and, preferably, within a period of four months from the date of the receipt of a copy of this order. No costs.

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2006. **(R.SUBHASH REDDY, J.)**

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Note:

Communicate operative portion

by wire at party's cost.

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